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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/749,264

12/31/2003

Ian Legate

1865-US

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7590

03/18/2008

LAW OFFICE OF BRUCE D. RUBENSTEIN
405 WALTHAM STREET, #404
LEXINGTON, MA 02421

EXAMINER

TO, TUAN C

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

03/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/749,264	Applicant(s) LEGATE ET AL.	
	Examiner TUAN C. TO	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 9-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 21-24 are rejected under 35 U.S.C. 102 (e) as being anticipated by Shultz et al. (US 7269482B1).

Regarding claims 21, and 22, Shultz et al. disclose an in-vehicle information system and software framework comprising:

a computer (column 3, lines 18-23, the processor 114 sends and receives data from the vehicle bus 108);

a telematics application, loaded on the computer and written using generic requests that are not particular to any make or model of vehicle (see the software framework shown in figure 2 and further illustrated in column 4, lines 6-23);

an electronic interface, operatively coupled to the computer, for connecting to a proprietary data bus of the vehicle (abstract); and

an abstract software layer, loaded on the computer and operatively disposed between the telematics application and the electronic interface (see figure 2, and the associated text in column 4, lines 42-49, the software framework 200 includes abstract software layer (212, 214, and 216);

wherein the abstract software layer is constructed and arranged for extracting vehicle data from the proprietary vehicle data bus in response to the generic requests from the telematics application and for providing the extracted data to the telematics application (figure 2).

As to claim 23, Shultz et al. further teaches a software API (application programmers interface) operatively coupled between the telematics application and the abstract software layer (see column 13, lines 33-47).

Regarding claim 24, Shultz et al. discloses a method of deploying a telematics application in a plurality of vehicles having different makes and/or models, wherein an abstract software layer is installed within each of the plurality of vehicles and is operatively connected to a data bus of the respective vehicle, comprising, for each vehicle:

creating a telematics application that includes generic requests to the abstract software layer for vehicle data vehicle (see the software framework shown in figure 2 and further illustrated in column 4, lines 6-23);

running the telematics application within the respective vehicle (see column 3, lines 46-59);

accessing, by the abstract software layer and responsive to the generic requests by the telematics application, vehicle data specified in the telematics application (see figure 2, column 4, lines 42-67); and

providing the accessed vehicle data to the telematics application to satisfy the generic request (see figure 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shultz et al. (US 7269482B1), and in view of Seashore et al. (US 5916286A).

Regarding claim 1, Shultz et al. teaches an in-vehicle information system and software framework comprising: providing a telematics application on a local telematics unit within a vehicle (column 3, lines 39-59), the telematics application implemented as a software program including generic requests for vehicle parameter data that are not specific to any particular make or model of the vehicle (see the software framework shown in figure 2 and further illustrated in column 4, lines 6-23);

providing an abstract software layer operatively disposed between the telematics application and the vehicle data bus (see figure 2, and the associated text in column 4, lines 42-49, the software framework 200 includes abstract software layer (212, 214, and 216);

executing the telematics application (see column 7, lines 40-61);

retrieving, by the abstract software layer and responsive to a request for vehicle parameter data from the telematics application, vehicle data bus information from a database (see figure 3, and column 8, lines 38-50, the vehicle data bus information from the database 214 is retrieved by the communication manager 212).

Shultz et al. fails to disclose the following: "retrieving vehicle data bus information from a database that stores data bus information for a plurality of different makes of vehicles the retrieved vehicle data bus information being associated with the make of vehicle on which the telematics application is executed".

Seashore et al. teaches a portable automotive diagnostic tool as a local telematics unit that receives information from automotive computer of a vehicle. The vehicle makes are stored in the flash memory (34) (Seashore et al., figure 3; column 3, lines 9-11; column 7, lines). The flash memory stores automobile code for each vehicle type. The vehicle data regarding a type of vehicle is retrieved in according to an input from user (Seashore et al., column 8, lines 28 and 29).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Shultz et al. to include the teachings of Seashore et al. so that a mechanic is capable to retrieve a diagnostic test or a vehicle information of a service vehicle that needed to be repaired.

As to claims 2 and 3, Shultz et al. further disclose the steps of "establishing a wireless link to a remote server; accessing a vehicle database with the remote server; and downloading vehicle data bus information to the local vehicle library from the remote database" (see column 3, lines 33-59).

As to claims 4, Shultz et al discloses that the telematics application comprises a vehicle diagnostics application program (see column 3, lines 46-59).

As to claim 14, Shultz et al. further discloses the request for vehicle data is made by the telematics application, and that such the data is responsive to the interpreted data returned in response to the data request (see figure 3, and column 8, lines 38-50, the vehicle data bus information from the database 214 is retrieved by the communication manager 212).

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shultz et al. (US 7269482B1).

Regarding claim 16, Shultz et al. teaches an in-vehicle information system and software framework comprising a telematics application implement as a software program including generic requests for vehicle parameter data that are not specific to any particular make or model of the vehicle (see the software framework shown in figure 2 and further illustrated in column 4, lines 6-23); and electronic interface for connecting to a vehicle data bus (see abstract); and an abstract software layer, operatively disposed between the telematics application and the vehicle data bus and including a wireless link (see 3, lines 33-38) for accessing vehicle specific data bus information via a computer network (see figure 2, and the associated text in column 4, lines 42-49, the software framework 200 includes abstract software layer (212, 214, and 216); wherein the abstract software layer is constructed and arranged for applying the vehicle-specific data bus information. Shultz et al. does not describes the act of using abstract software layer for translating between the generic instructions of the telematics application and the vehicle databus.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the communication manager (212), the data warehouse (214), and display manager (216) which are described as the software layer of the framework (200) as taught in Shultz et al. in order to translate the generic instructions of telematics application and the vehicle databus.

As to claim 17, Shultz et al. further teaches a software API (application programmers interface) operatively coupled between the telematics application and the abstract software layer (see column 13, lines 33-47).

As to claims 18-20, Shultz et al. further discloses that the telematics application includes navigation application, security application, and diagnostic application (see column 3, lines 46-66).

Claims 9-11, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klausner et al. (US 6748305B1) and in view of Seashore et al. (US 5916286A).

With regarding to claims 9, 11, and 13, Klausner et al. teaches a method of acquiring vehicle data. In Klausner et al., there is included a system/method of storing data in a vehicle and evaluating said stored data. In Klausner et al, the vehicle data stored in a memory, and that said data can be acquired from a vehicle data bus (Klausner et al., abstract). The method of acquiring vehicle data is responsive to the execution of a telematics application on a local telematics unit. Such the telematics unit can be seen in figure 1 of Klausner et al. Thus, Klausner et al. teaches “executing a telematics application on a local telematics unit operatively connected to a vehicle”.

Klausner et al. teaches “requesting vehicle parameter data by the telematics application”. As set forth in column 5, lines 24-28, the vehicle data in the memory (100), and that the data can be retrieved in response to the a request (see column 2, lines 39-43, the memory medium can input and analyze data on the data bus and can request data from the bus devices for storage and reconstruction). Klausner et al. further

teaches “querying the database to retrieve data bus information for a particular vehicle make that corresponds to the vehicle; and extracting vehicle data from a vehicle data bus using the vehicle data bus information”. Klausner et al., the vehicle databus information stored in the memory medium (column 2, lines 34-38) can be retrieved according to a particular vehicle. Such the vehicle data bus information can be extracted using the data bus (column 5, lines 8-14).

As discussed herein above, Klausner et al. teaches “querying the database to retrieve data bus information for a particular vehicle make that corresponds to the vehicle; and extracting vehicle data from a vehicle data bus using the vehicle data bus information”, thus, Klausner et al. inherently discloses that the vehicle parameter data is requested conditionally by the telematics application depending upon the extracted vehicle data.

Klausner et al. fails to include “accessing, responsive to the step of requesting vehicle parameter data, a database that stores data bus information for a plurality of different vehicle makes”.

Seashore et al. teaches a portable automotive diagnostic tool as a local telematics unit that receives information from automotive computer of a vehicle. The vehicle makes (claim 9 recited different vehicle makes) are stored in the flash memory (34) (Seashore et al., figure 3; column 3, lines 9-11; column 7, lines). The flash memory stores automobile code for each vehicle type. The vehicle data regarding a type of vehicle is retrieved in according to an input from user (Seashore et al., column 8, lines

28 and 29). This shows that user can access a vehicle parameter data to follow the user's request.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Klausner et al. to include the teachings of Seashore et al. so that a mechanic is capable to retrieve a diagnostic test or a vehicle information of a service vehicle that needed to be repaired.

With regard to claim 10, Klausner et al. disclose that the vehicle information can be passed to a protocol driver, wherein such protocol driver is a CAN (Klausner et al., column 6, lines 39-41).

As to claim 15, Klausner et al. teaches the telematics application is a diagnostic application (see column 4, lines 37-41).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klausner et al. (US 6748305B1), Seashore et al. (US 5916286A), and further in view of Trsar et al. (US 20050021294A1).

Neither Klausner et al. nor Seashore et al. teaches the step of "accessing comprises establishing a wireless link to a remote server operatively connected to the vehicle database".

The secondary reference to Trsar et al. is directed to a diagnostics service system/method including a data processing system (100), wherein said processing system includes a communication interface (218) coupled to bus (202). Communication interface may be local area network (LAN) card, wireless links, etc (Trsar et al, paragraph 0027, lines 8-11). The communication interface (218) is provided for

establishing a wireless link to the remote server (230) through the Internet (227) (Trsar et al., paragraph 0029).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Klausner et al., and Seashore et al. to include the teaching of Trsar et al. in order to obtain vehicle related data from a remote server after the vehicle user's request received and processed at said server.

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

Response to Arguments

The applicant's request for continued examination has been fully considered, however, the claims cannot be patentable over the cited prior art.

Conclusions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan C To/

Acting Examiner of Art Unit 3663/3600

March 11, 2008